

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35247

STATE OF IDAHO,	)	2009 Unpublished Opinion No. 396
	)	
Plaintiff-Respondent,	)	Filed: March 26, 2009
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
DAVID D. RUSHER,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Gordon W. Petrie, District Judge.

Order relinquishing jurisdiction, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before PERRY, Judge; GUTIERREZ, Judge;  
and GRATTON, Judge

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PER CURIAM

In this case we are asked to determine whether the district court abused its discretion in refusing to grant probation following a period of retained jurisdiction. We are also asked to review a unified sentence of twenty years, with a minimum period of confinement of ten years, for sexual abuse of a minor under sixteen years of age. We affirm.

David D. Rusher pled guilty to one count of sexual abuse of a minor under sixteen years of age. I.C. § 18-1506(b). In exchange for his guilty plea, an additional charge was dismissed. Following his plea, Rusher was sentenced to a unified term of twenty years, with a minimum period of confinement of ten years. The district court retained jurisdiction for 180 days, and Rusher was sent to participate in the rider program.

After Rusher completed his evaluation, the jurisdictional review committee recommended probation. The district court, however, relinquished jurisdiction. Rusher appeals, claiming that the district court erred by refusing to grant probation in light of the recommendation of the jurisdictional review committee. He also argues that the sentence of twenty years, with a minimum period of confinement of ten years, is excessive and constitutes an abuse of discretion.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990).

The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Rusher has failed to show that the district court abused its discretion, and we therefore affirm the order relinquishing jurisdiction.

Rusher also contends that the unified sentence twenty years, with a minimum period of confinement of ten years, is excessive and constitutes an abuse of discretion. Sentences are reviewed for an abuse of discretion. Our appellate standard of review and the factors to be considered when evaluating the reasonableness of a sentence are well-established. *State v. Burdett*, 134 Idaho 271, 1 P.3d 299 (Ct. App. 2000); *State v. Sanchez*, 115 Idaho 776, 769 P.2d 1148 (Ct. App. 1989); *State v. Reinke*, 103 Idaho 771, 653 P.2d 1183 (Ct. App. 1982); *State v. Toohill*, 103 Idaho 565, 650 P.2d 707 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

Rusher argues that all of the relevant goals of sentencing could have been accomplished with probation. As noted above, however, the district court found that probation was not an appropriate course of action in Rusher's case. The record does not indicate that a unified term of twenty years, with a minimum period of confinement of ten years, was an abuse of discretion in this case. Accordingly, the sentence is affirmed.

The order of the district court relinquishing jurisdiction and Rusher's sentence are affirmed.